

**DISTRICT JUDGE'S MINUTES
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA – PHOENIX**

U.S. District Judge: Douglas L. Rayes

Date: June 23, 2022

USA v. David Allen Harbour

Case Number: CR-19-00898-001-PHX-DLR

Assistant U.S. Attorney: Coleen Schoch

Attorney for Defendant: Stephen Dichter, Retained

Defendant: ☒ **Present (VTC)** ☐ **Not Present** ☐ **Released** ☒ **Custody** ☐ **Summons** ☐ **Writ**

EVIDENTIARY HEARING (DAY 2):

9:30 a.m. Reconvene. Counsel present. Defendant appears via video conference. Kathleen Nicolaides is sworn and examined. Defendant's exhibits 84, 96, and 97 are admitted. Defendant's exhibits 98 and 99 are identified for demonstrative purposes only. Examination of Kathleen Nicolaides is completed. Plaintiff's exhibit 70 is admitted.

Discussion is held regarding Defendant's Motion to Dismiss the Second Superseding Indictment, or alternatively, to Continue Trial (Doc. 389). Brief oral argument is heard. The motion is **DENIED** as to Defendant's request to dismiss the second superseding indictment and **GRANTED** as to Defendant's request to continue trial. Trial is continued to January 10, 2023 at 9:00 a.m. The Final Pretrial Conference is continued to December 20, 2022 at 9:30 a.m. **IT IS FURTHER ORDERED** that if any subpoenas were previously issued and served in this matter, that they remain in effect and are answerable at the new trial date and the party who served the subpoena should advise the witnesses of the trial date. The Court finds excludable delay under Title 18 U.S.C §3161(h)(7)(A) from August 16, 2022 to January 10, 2023.

Proffer and oral argument are heard regarding the merits of the allegations contained in the Petition to Revoke Pretrial Release (Doc. 267). On the Court's own motion, and there being no objection, Defendant's exhibits 82 and 83 are admitted. 11:02 a.m. Recess.

11:20 a.m. Reconvene. Additional oral argument heard on the petition to revoke. The Court takes the issue of detention under advisement. The parties are directed to submit proposed conditions of release on or before June 27, 2022. Additionally, Defense counsel is directed to file their evidentiary hearing memorandum on the issue overcoming the rebuttable presumption on or before June 27, 2022. The Government's response is due on or before June 30, 2022. Defendant's reply is due on or before July 5, 2022. The parties are limited to 7-pages each for the memorandum and subsequent briefings.

12:23 p.m. Court is adjourned.

Court Reporter: Jennifer Pancratz

Deputy Clerk: Robert Vasquez

EH: 2 hr 31 min

Start: 9:30 AM

Stop: 12:23 PM